IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C.M.No.18171-C-II of 2006 &
C.R.No.2882 of 2006

Date of Decision : September 11, 2006.

Harpal Singh ..... Petitioner

Vs.

Kamaljit Kaur ..... Respondent

Coram : Hon'ble Mr.Justice P.S.Patwalia

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Present : Mr.J.R.Mittal, Senior Advocate
with Mr.K.S.Chahal, Advocate
for the petitioner.

Ms.Jaspal Kaur Gurna, Advocate
for the respondent.

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P.S.Patwalia, J. (Oral) :

Learned senior counsel has placed on record a compromise allegedly entered into between the parties by filing a joint application under Order 23 Rule 1 of the Code of Civil Procedure. He states that the petition should be decided in terms of the said compromise.

The present revision petition challenges an order dated 27.7.2005 setting aside judgment and decree dated 10.3.1998. A reading of the order challenged in this revision petition would show that the petitioner

had committed a fraud with the court and secured decree dated 10.3.1998. He had filed a petition under Section 13-B of the Hindu Marriage Act seeking divorce from Kamaljit Kaur, respondent herein. On 10.3.1998 divorce under Section 13-B had been granted as according to the learned District Judge, parties had appeared before him first on 9.9.1997 when even their statements were recorded and after a period of six months i.e. on 10.3.1998 when the said decree was passed. However, subsequently Kamaljit Kaur-wife had filed an application under Order 9 Rule 13 for setting aside the decree dated 10.3.1998 taking a plea in fact she had never appeared before the court on either of these two dates and she had never given any consent nor she had ever signed the petition. In fact it is the husband who produced some other lady before the court who held herself out to be Kamaljit Kaur and after getting the statements recorded, succeeded in getting the divorce. After detailed evidence the learned District Judge concluded that the plea raised by the wife was correct. Learned Judge concluded that a fraud had been played with the court and the decree secured by false deposition. It is therefore that the said decree was held to be nullity in the eyes of law and set aside.

However today before me learned counsel for the parties submitted that both Harpal Singh and Kamaljit Kaur have now compromised the matter. They both desire that the marriage should be annulled as they want to lead their own separate lives. I am of the opinion that in view of the aforementioned facts, before any further order can be passed, the parties would have to be properly identified. It is only thereafter that further proceedings in pursuance to the compromise can be taken. Since the decree of divorce dated 10.3.1998 has been set aside, I am of the

opinion that the original petition filed under Section 13-B would now be considered to be pending before the learned District Judge, Chandigarh.

In view of the aforementioned facts I am not inclined to allow this application by way of compromise now placed before me. Rather I am of the opinion that since now the original application under Section 13-B stands revived before the learned District Judge, Chandigarh the appropriate course for the parties is now to appear before the learned District Judge, Chandigarh and present this compromise before the learned District Judge, Chandigarh who would proceed in the matter thereafter in accordance with law.

In this view of the matter learned counsel for the petitioner states that he would not press this revision petition any further. He states that the parties would appear before the District Judge, Chandigarh on any date fixed by the court and present the compromise before him who would take further proceedings thereon. I accept this request of the learned counsel for the parties. The present revision petition is dismissed as withdrawn. The parties would now appear before the learned District Judge on 25.09.2006 who would thereafter proceed in the original petition filed under Section 13-B of the Hindu Marriage Act in accordance with law.

Registry is directed to return the original compromise filed along with C.M.No.18171-C-II of 2006 to the counsel for the petitioner so as to enable him to appear before the learned District Judge, Chandigarh.

Disposed of in the aforementioned terms.

September 11, 2006 (P.S.Patwalia)
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